

RICHARD E. AND GLORIA M. NAAS
MICHAEL D. AND ECHO AYOOB

IBLA 81-863

Decided August 28, 1981

Appeal from decision of California State Office, Bureau of Land Management, returning, unrecorded, notices of location of mining claims. 3833 C-952.4.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Recordation

Under sec. 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(b) (1976), and 43 CFR 3833.1-2(b), the owners of unpatented lode or placer mining claims located after Oct. 21, 1976, within 90 days after the location of such claims, must file in the proper BLM office a copy of the official record of the notice of location or certificate of location. Failure to file such instruments timely is deemed conclusively to constitute an abandonment of the mining claims by the owners, and they are properly declared void.

APPEARANCES: Richard E. Naas, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Richard D. Naas, on behalf of himself and his colocators has appealed the California State Office, Bureau of Land Management (BLM), decision of July 13, 1981, which returned without recording the notices of location for the Chrome Gold Consolidated #4, #5, #6, #13, #14, #15, and #16 placer mining claims because the notices of location had not been filed with BLM within 90 days after the date of location as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2(b). The mining claims were declared abandoned and void.

The mining claims were located November 18, 1980, and recorded in the records of Plumas County, California, on November 21, 1980. The copies of the notices of location were received by BLM for recordation on July 8, 1981.

Appellant states that he was advised by Plumas County personnel that he had until December 1981 to record the notices of location with BLM.

[1] Section 314 of FLPMA, 43 U.S.C. § 1744 (1976), requires the owner of an unpatented mining claim located on Federal lands after October 21, 1976, to file a copy of the official record of the location notice in the proper BLM office, as designated by the Secretary of the Interior, within 90 days after the date of location. The statute also provides that failure to file timely such record shall be deemed conclusively to constitute an abandonment of the mining claim by the owners. The pertinent regulation, 43 CFR 3833.1-2, provides that filing shall mean being received and date stamped by the proper BLM office within 90 days after the date of location.

All persons dealing with the Government are presumed to have knowledge of relevant statutes and regulations duly promulgated thereunder. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Brewery Hill Mining Co., 49 IBLA 197 (1980), 44 U.S.C. §§ 1507, 1510 (1976).

The above-cited statute and regulation impose a conclusive presumption of mining claim abandonment for any failure to file the required instruments in the proper BLM office by the date on which they are due. This Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Appellants may wish to consult with BLM about the possibility of relocating the claims.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

